

Court Clerk
Wash. Court of Appeals II
909 A. Street (Suite 200)
Tacoma, WA 98402

08/16/22

Re: Clerk Action Requested (COA#57006-8-II)

Court Clerk,

Enclosed is a Motion To Amend PRP
and an Amended Personal Restraint Petition.

Please Note the Motion For consideration
by a Commissioner or Judge.

The Declaration of Service is combined
into the same pleading with the motion.

Thank You,



Patrick Drum #784289
Washington Corr. Ctr.
P.O. Box 900
Shelton, WA
98584

RECEIVED

AUG 19 2022

CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON

WASHINGTON STATE COURT OF APPEALS

Division II

FILED
COURT OF APPEALS
DIVISION II

2022 AUG 19 PM 2:33

STATE OF WASHINGTON

BY Jm7

DEPUTY

In Re Personal Restraint of
PATRICK BOYD DRUM

COA# 57006-8-II

MOTION TO AMEND PRP

MOTION TO AMEND PRP

Patrick Drum, Pro Se, hereby motions the Court of Appeals to Amend his Personal Restraint Petition. A copy of the amended petition is attached.

This amendment intends to replace the original petition. The original petition has not yet been ruled upon its merits and the law permits amended petitions to correct oversights. Respondent should be granted an additional 60 days to answer amendment.

DECLARATION OF SERVICE

I, Patrick Drum, hereby certify that I have served a copy of this motion and attached Amended PRP by mail to:

Jesse Espinoza	Wash. Sts. Court of Appeals II
Clallam County Deputy Prosecutor	909 A. St. (Suite 200)
223 E. 4th St. (Ste. 11)	Tacoma, WA 98402
Port Angeles, WA 98362	

Sworn to be true and correct in Mason County,
Washington on 08-16-2022. Pat 2

Patrick Drum #784289

COURT OF APPEALS FOR THE STATE OF WASHINGTON

DIVISION II

AMENDED PERSONAL RESTRAINT PETITION

COA No. 57006-8-II
Clallam County Superior Court No. 12-1-00182-0

PATRICK BOYD DRUM
Petitioner

STATE OF WASHINGTON
(Clallam County Prosecutor)
Respondent

Patrick Drum #784289
Washington Corrections Center
P.O. Box 900
Shelton, WA 98584

FILED
COURT OF APPEALS
DIVISION II
2022 AUG 19 PM 2:33
STATE OF WASHINGTON
BY *JMS*
DEPUTY

I. IDENTITY OF PETITIONER

Pro se petitioner, Patrick Drum, submits the following Personal Restraint Petition (PRP) collaterally attacking Clallam County Superior Court Cause No. 12-1-00182-0.

II. FACTS AND HISTORY

On June 06, 2012, Drum was officially accused by the Clallam County Prosecuting Attorney's office of Aggravated First Degree Murder (Counts I and II); Burglary in the First Degree While Armed With a Firearm (Count III); and Unlawful Possession of a Firearm in the First Degree (Count IV). *See* Attach. A: Criminal Information.

Drum was sentenced by Judge S. Brooke Taylor on September 18, 2012 pursuant to a guilty plea entered on August 30, 2012. The sentence was as follows: Counts I and II, life without the possibility of parole (x2); Count III, 116 months total confinement with 36 months community custody; Count IV, 89 months total confinement with 12 months community custody. *See*, Attach. B: Judgment and Sentence (J and S) at 1, 4, and 5. Drum now brings this PRP contending the Judgment and Sentence is legally invalid on its face.

III. GROUNDS FOR RELIEF

Ground 1: The court erred in imposing 12 months community custody for the crime of Unlawful Possession of a Firearm.

Argument: The sentencing court ordered Drum to serve 12 months community custody for Count IV (Unlawful Possession of a Firearm). *See*, Attach. B: J and S at 1, 4, and 5. Unlawful Possession of a Firearm is not a crime that carries community custody unless it includes the fact of the offender being a criminal street gang member or associate. *See*, RCW 9.94A.701 (2012). The Judgment and Sentence specifically states the crimes eligible for the 12 months community custody. *See*, Attach B: J and S at 5, line 15.

There is nothing in the Judgment and Sentence that indicates that the court found Drum to be a criminal street gang member or associate. This is apparent by the unchecked box next to the clause stating, “Count ____ is the crime of Unlawful Possession of a Firearm and the defendant was a criminal street gang member or associate when the defendant committed the crime.” *See, Id.* at 2, line 11.

The court’s imposition of 12 months community custody for Count IV does not conform to RCW 9.94A.701 (2012). Therefore, the Judgment and Sentence is not valid on its face.

Ground 2: The court erred in ordering Drum to undergo an evaluation for substance abuse treatment without a finding that chemical dependency contributed to his offense.

Argument: The sentencing court ordered Drum to “undergo an evaluation for treatment for substance abuse.” *See, Attach. B: J and S* at 6, line 3. The court also ordered that Drum “shall undergo outpatient treatment as prescribed by the court or the Office of Community Corrections as follows: for substance abuse.” *See, Id.* at 6, line 19.

RCW 9.94A.607(1) states:

Where the court finds that the offender has a chemical dependency that contributed to his or her offense, the court may, as a condition of the sentence and, subject to available resources, order the offender to perform affirmative conduct reasonably related to the circumstances of the crime for which the offender has been convicted and reasonably related to the circumstances of the crime which the offender has been convicted and reasonably necessary or beneficial to the offender and the community in rehabilitating the offender. RCW 9.94A.607(1) (2012) *emphasis added*.

There is nothing in the Judgment and Sentence that indicates the court found Drum has a chemical dependency that has contributed to the offense(s).¹ This is apparent by the unchecked

¹ Drum is not well enough versed in the sentencing procedures to say whether the court can or cannot make the required finding upon resentencing.

box next to the clause stating, "The defendant has a chemical dependency that has contributed to the offense(s)." *See*, Attach. B: J and S at 2, line 19.

The court's order that Drum undergo an evaluation and outpatient treatment for chemical dependency does not conform to RCW 9.94A.607(1) (2012) because it did not make the necessary finding.² Therefore, the Judgment and Sentence is invalid on its face.

Ground 3: Drum was sentenced to Aggravated First Degree Murder when there are no aggravators found in the Judgement and Sentence to support that conviction.

Argument: Drum was charged and convicted of two counts of Aggravated First Degree Murder. *See*, Attach. A: Criminal Information at 1 and 2; *see also*, Attach. B: J and S at 1. The aggravators that made these crime Aggravated Murder in the First Degree were per the states allegations on the charging document:

*There was more than one victim, and the murders were part of a common scheme or plan; contrary to revised code of Washington 9A.32.030(I)(a) and 10.95.020;

*The murder was committed in the course of or in furtherance of a burglary in the First Degree, contrary to Revised code of Washington 9A.32.030(I)(a) and 10.95.020;

*The state further alleges the existence of an aggravating circumstance justifying a departure from the standard sentence range pursuant to RCW 9.94A.535(q) that the defendant demonstrated or displayed an egregious lack of remorse.

See Attach A: Criminal Information at 1,2, and 4.

The aggravated First Degree Murder convictions are contrary to the courts *judgment*. This is apparent when evaluating the "III. Judgement" section of the Judgement and Sentence.

Paragraph 3.2 clearly orders: "The court dismisses the aggravators in the charging document."

See, Attach B: J and S at 4, line 15.

² *CF*, The sentencing court finding Drum used a motor vehicle in commission of Counts I-IV. *See*, Attach. B: J and S at 2, line 18. Thereby conforming to RCW 46.20.285 and being authorized to have the Department of Licensing revoke his driver license. *See, Id.* at 11, line 2.

Because the court dismissed all of the aggravators that supports a conviction and sentence under RCW 10.95.020, et seq., the legally valid conviction should be Murder in the First Degree (non-aggravated).

Ground 4: The errors outlined in Grounds 1, 2, and 3 above are fundamental defects which created manifest injustices that prejudiced Drum.

Argument: While Drum is indeed serving a life sentence (Counts I and II) and 36 months community custody (Count III), it would be erroneous to use those facts to determine that there is no prejudice. This would be in the premise that there is no future possibility of Drum getting Counts I, II, and III reduced or overturned based on new circumstances, new facts, and/or changes in the law. The Court of Appeals does not have such unwavering foresight.

The prejudice here is that Drum was ordered to serve community custody for a crime that is not eligible for community custody by statute. Drum uses the example of a sentence based upon an incorrect offender score being a fundamental defect that inherently results in a miscarriage of justice. *CF, Pers. Restraint of Goodwin*, 146 Wn. 2d 861, 868, 50 P.3d 618 (2002). This example applies because a defendant is no less restricted when he is under community placement, particularly community custody, as when incarcerated. *State v. Ross*, 129 Wn. 2d 279, 289 (1996). The *Goodwin* court found that when a trial court has entered an erroneous sentence, “the defendant is entitled to be resentenced.” *Goodwin, Supra.* at 869.

There is also prejudice here because Drum was ordered to substance abuse evaluation/treatment and that order does not conform to statute. This is relevant because the Department of Corrections has the authority to enforce the court order via programming plans while Drum is incarcerated. In the event of release the ordered treatment is at Drum’s fiscal expense.

Finally, there is prejudice because the erroneous Aggravated First Degree Murder convictions mandate a sentence of life without the possibility of parole permitted to be served in total confinement. *See*, RCW 10.95.020, et seq. As such, it gave the defendant no option to argue mitigating circumstances for a departure below the sentencing guidelines. The proper convictions of First Degree Murder (non-aggravated) provide the ability to argue substantial and compelling reason to justify departure below the standard sentencing range (*see*, Attach B: J and S at 4, lines 2-3), a sentence flexible (subject to the limitations outlined in RCW 9.94A.540(1)(a)), and the ability to obtain partial confinement. Because of these sentencing differences between aggravated and non-aggravated murder, Drum was prejudiced.

Ground 5: The Judgment and Sentence is not valid on its face and therefore not time barred by RCW 10.73.090(1), *nor per RCW 10.73.100.*

Argument: The errors outlined in this PRP require no review beyond the four corners of the Judgment and Sentence.³

RCW 10.73.090(1) states:

No petition or motion for collateral attack on a judgment and sentence in a criminal case may be filed more than one year after the judgment becomes final *if the judgment and sentence is valid on its face* and was rendered by a court of competent jurisdiction.

RCW 10.73.090(1) *emphasis added.*

Drum has presented errors in Grounds 1, 2, and 3 above that render the Judgment and Sentence not valid on its face. Therefore, this PRP is not time barred by RCW 10.73.090. Additionally, Mr. Drum being convicted for aggravated first degree murder when the aggravators

³ The Judgement and Sentence orders the dismissal of the “aggravators in the charging document.” Drum limits his Ground 3 reference to the charging document solely to presenting those aggravators’ definitions and the Revised Codes of Washington they were brought under.

were dismissed by the court is a violation of due process, therefore not constitutional, and is not time-barred under RCW 10.73.100.

IV. RELIEF SOUGHT

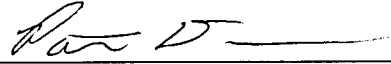
Drum asks for an order remanding him back to the sentencing court to be resentenced in a manner authorized by law.

Drum also asks the Court of Appeals to provide guidance to the sentencing court on the issue of a chemical dependency contributing to the offense finding being permitted or not at resentencing.

Finally, Drum asks for an order that he be resentenced to the correct convictions of (non-aggravated) First Degree Murder for counts I and II; along with the ability to argue Mitigating circumstances to depart from the standard sentencing guidelines as that option was not available to him when sentenced to a mandatory life sentence without the possibility of parole for the erroneous convictions under RCW 10.95.020, et seq.

V. OATH

I swear under the penalty of perjury that the foregoing is true and correct. Sworn in
Mason County, Washington on 08-16-2022.



Patrick Drum #784289
Petitioner

ATTACHMENT A

Criminal Information

FILED
CLALLAM COUNTY

JUN - 6 2012

BARBARA CHRISTENSEN CLERK

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLALLAM

STATE OF WASHINGTON,

Plaintiff,

vs.

PATRICK BOYD DRUM,

Defendant(s).

NO. 12-1-00182-0

☒ CRIMINAL INFORMATION
☐ CRIMINAL COMPLAINT (INFO)

FOR: Counts I and II: AGGRAVATED FIRST
DEGREE MURDER (RCW 10.95.020 and RCW
9A.32.030(1)(a)); Count III: BURGLARY IN
THE FIRST DEGREE (RCW 9A.52.020),
Count IV: UNLAWFUL POSSESSION OF A
FIREARM IN THE FIRST DEGREE (RCW
9A.41.040(1)(a))

I, DEBORAH S. KELLY Prosecuting Attorney for the State
of Washington in the venue of Clallam County, come now in the name of and by the authority of
the State of Washington and by this Information/Complaint do accuse the above-named
Defendant(s) of the following crime(s), committed as follows:

COUNT I: AGGRAVATED FIRST DEGREE MURDER

On or about the 2nd day of June, 2012, in the County of Clallam, State of Washington, the
above-named Defendant with a premeditated intent to cause the death of another person, the
defendant caused the death of such person, to-wit: Gary Lee Blanton;

AND FURTHERMORE, there was more than one victim and the murders were part of a
common scheme or plan; contrary to Revised Code of Washington 9A.32.030(1)(a) and
10.95.020;

AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an
accomplice was armed with a firearm; contrary to Revised Code of Washington 9.94A.125 or
9.94A.602, a Class A felony;

Minimum Penalty - If the Defendant is found to have committed first degree murder, a
mandatory minimum term of premeditated murder, a term of incarceration of not less than 20

CCSO No. 12-10091

cc: Jail (new in-custody)

CLALLAM COUNTY
PROSECUTING ATTORNEY
Clallam County Courthouse
223 East Fourth Street, Suite 11
Port Angeles, Washington 98362-3015
(360) 417-2301 FAX 417-2469

years pursuant to RCW 9.94A.540(1)(a). If the Defendant is found to have been armed with a firearm at the time of the commission of the crime, an additional sixty (60) months is added to the presumptive range of confinement for a first offense and an additional one-hundred-twenty (120) months is added to the presumptive range of confinement if the Defendant has previously been sentenced for any deadly weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.310(3)(a) and (d), and/or RCW 9.94A.510(3)(a) and (d)(3)(a) and (d).

Maximum Penalty - Life imprisonment without the possibility of parole or release or, death if the State files written notice of a special sentencing proceeding to determine whether the death penalty should be imposed and if the jury finds that there are not sufficient mitigating circumstances to merit leniency; pursuant to RCW 10.95.030, 10.95.040 and 10.95.080.)

COUNT II: AGGRAVATED FIRST DEGREE MURDER

On or about the 2nd to 3rd day of June, 2012, in the County of Clallam, State of Washington, the above-named Defendant with a premeditated intent to cause the death of another person, the defendant caused the death of such person, to-wit: Jerry Wayne Ray;

AND FURTHERMORE, there was more than one victim and the murders were part of a common scheme or plan;

AND FURTHERMORE, the murder was committed in the course of or in furtherance of a BURGLARY IN THE FIRST DEGREE, contrary to Revised Code of Washington 9A.32.030-(1)(a) and 10.95.020;

AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an accomplice was armed with a firearm; contrary to Revised Code of Washington 9.94A.125 or 9.94A.602, a Class A felony;

Minimum Penalty - If the Defendant is found to have committed first degree murder, a mandatory minimum term of premeditated murder, a term of incarceration of not less than 20 years pursuant to RCW 9.94A.540(1)(a). If the Defendant is found to have been armed with a firearm at the time of the commission of the crime, an additional sixty (60) months is added to the presumptive range of confinement for a first offense and an additional one-hundred-twenty (120) months is added to the presumptive range of confinement if the Defendant has previously been sentenced for any deadly weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.310(3)(a) and (d), and/or RCW 9.94A.510(3)(a) and (d)(3)(a) and (d).

Maximum Penalty - Life imprisonment without the possibility of parole or release or, death if the State files written notice of a special sentencing proceeding to determine whether the death penalty should be imposed and if the jury finds that there are not sufficient mitigating circumstances to merit leniency; pursuant to RCW 10.95.030, 10.95.040 and 10.95.080.)

COUNT III: BURGLARY IN THE FIRST DEGREE

On or about the 2nd day of June, 2012, in the County of Clallam, State of Washington, the above-named Defendant, with intent to commit a crime against a person or property therein, did enter or remain unlawfully in the building of Paul Ray, located at 31 Heuhslein Road, Port Angeles, Washington, and, in entering or while in the building, the defendant was armed with a deadly weapon and/or did intentionally assault any person therein; contrary to Revised Code of Washington 9A.52.020;

AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an accomplice was armed with a firearm; contrary to Revised Code of Washington 9.94A.125 or 9.94A.602, a Class A felony;

Minimum Penalty - If the Defendant is found to have been armed with a firearm at the time of the commission of the crime, an additional sixty (60) months is added to the presumptive range of confinement for a first offense and an additional one-hundred-twenty (120) months is added to the presumptive range of confinement if the Defendant has previously been sentenced for any deadly weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.310(3)(a) and (d), and/or RCW 9.94A.510(3)(a) and (d)(3)(a) and (d).

Maximum Penalty - Life imprisonment and/or a \$50,000.00 fine pursuant to RCW 9A.52.020(2) and RCW 9A.20.021(1)(a), plus restitution and assessments.

(If the defendant has previously been convicted on two separate occasions of a "most serious offense" as defined by RCW 9.94A.030(32), in this state, in federal court, or elsewhere, the mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant to RCW 9.94A.030(32)(a) and RCW 9.94A.120(4) or RCW 9.94A.570.)

**COUNT IV: UNLAWFUL POSSESSION OF A FIREARM IN THE
FIRST DEGREE**

On or about the 2nd to 3rd day of June, 2012, in the County of Clallam, State of Washington, the above-named Defendant, having previously been convicted in this state or elsewhere of a serious offense as defined in RCW 9.41.010(12)(a), to-wit: Residential Burglary in Clallam County Superior Court cause number 98-1-00182-7, and/or Residential Burglary in Jefferson County Superior Court cause number 04-1-00110-8, and/or Burglary in the Second Degree in Kitsap County Superior Court cause number 05-1-00007-2, did knowingly own or have in his possession or under his control a firearm, to-wit: a 9 mm semi-automatic pistol; contrary to Revised Code of Washington 9.41.040(1)(a), a Class B felony;


Maximum Penalty - Ten (10) years imprisonment or \$20,000 fine, or both pursuant to RCW 9.41.040(1)(b) and RCW 9A.20.021(1)(c), plus restitution, assessments and court costs.

The State further alleges the existence of an aggravating circumstance, justifying a departure from the standard sentencing range pursuant to 9.94A.535(3)(q), that the defendant demonstrated or displayed an egregious lack of remorse.

Contrary to the form, force and effect of the statutes in such cases made and provided, and against the Peace and Dignity of the State of Washington.

DATED at Port Angeles, Washington, this 6th day of June, 2012.

PATRICK BOYD DRUM: White Male,
DOB 03/02/1978, 5'10", 160 lbs., brown
hair, blue eyes, DOC 784289, WA DOL
DRUM*PB228DB, SID WA19137344,
FBI 887626HB1,
Address: 5011 Sequim Dungeness Way,
Sequim, WA 98382

By: 
DEBORAH S. KELLY WBA #8582
Clallam County Prosecuting Attorney

DSK:ljm

ATTACHMENT B

Judgment and Sentence

CERTIFIED COPY

FILED
CLALLAM CO CLERK
2012 SEP 18, A 10:19
BARBARA CHRISTENSEN

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLALLAM

STATE OF WASHINGTON, Plaintiff,

vs.

PATRICK BOYD DRUM 03/02/1978
Defendant. DOB

PCN: 966073535

SID: SID WA19137344

SPD/CCSO No. 12-10091, 12-10087

NO. 12-1-00182-0

FELONY JUDGMENT AND SENTENCE -- PRISON (FJS)

☒ Clerk's Action Required, para 2.1, 4.1,
4.3, 5.2, 5.3, 5.5 and 5.7
☒ Defendant Used Motor Vehicle
☐ Juvenile Decline ☐ Mandatory
☐ Discretionary

I. HEARING

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer,
and the (deputy) prosecuting attorney were present.

II. FINDINGS

2.1 Current Offenses: The defendant is guilty of the following offenses, based upon
☒ guilty plea (date) August 30, 2012:

Count	Crime	RCW (w/subsection)	Class	Date of Crime
I	AGGRAVATED FIRST DEGREE MURDER # _____	RCW 10.95.020 and RCW 9A.32.030(1)(a))	A	2nd day of June, 2012
II	AGGRAVATED FIRST DEGREE MURDER # _____	RCW 10.95.020 and RCW 9A.32.030(1)(a))	A	2nd to 3rd day of June, 2012
III	BURGLARY IN THE FIRST DEGREE # _____	RCW 9A.52.020)	A	2nd day of June, 2012
IV	UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE # _____	RCW 9.41.040(1)(a))	B	2nd to 3rd day of June, 2012

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1a.

~~The jury returned a special verdict or the court made a special finding with regard to the~~
following:

FELONY JUDGMENT AND SENTENCE (FJS)
(Prison) (Nonsex Offender) (RCW 9.94A.500, .505)
(WPF CR 84.0400 (7/2011)) Page 1 of 13

CLALLAM COUNTY
PROSECUTING ATTORNEY
Clallam County Courthouse
223 East Fourth Street, Suite 11
Port Angeles, Washington 98362-3015
(360) 417-2301 FAX 417-2469



FAXED

PI Doc 9/18/12

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- 1 ☐ The defendant used a **firearm** in the commission of the offense in Count _____. RCW
2 9.94A.602, 9.94A.533.
- 3 ☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in
4 Count _____. RCW 9.94A.602, 9.94A.533.
- 5 ☐ For the crime(s) charged in Count _____, **domestic violence** was pled and provey. RCW
6 10.99.020.
- 7 ☐ Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**,
8 RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the
9 perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the
10 school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or
11 within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local
12 government authority, or in a public housing project designated by a local governing authority
13 as a drug-free zone.
- 14 ☐ The defendant committed a crime involving the manufacture of methamphetamine, including
15 its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the**
16 **premises of manufacture** in Count _____. RCW 9.94A.605, RCW 69.50.401,
17 RCW 69.50.440.
- 18 ☐ Count _____ is a **criminal street gang-related felony** offense in which the
19 defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the
20 commission of the offense. RCW 9.94A.833.
- 21 ☐ Count _____ is the crime of **unlawful possession of a firearm** and the defendant was a
22 **criminal street gang member or associate** when the defendant committed the crime. RCW
23 9.94A.702, 9.94A.____.
- 24 ☐ The defendant committed ☐ **vehicular homicide** ☐ **vehicular assault** proximately
25 caused by driving a vehicle while under the influence of intoxicating liquor or drug or by
operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense.
RCW 9.94A.030.
- ☐ Count _____ involves **attempting to elude** a police vehicle and during the commission
of the crime the defendant endangered one or more persons other than the defendant or the
pursuing law enforcement officer. RCW 9.94A.834.
- ☐ In Count _____ the defendant has been convicted of **assaulting a law enforcement**
officer or other employee of a law enforcement agency who was performing his or her official
duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant
intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831,
9.94A.533.
- ☒ Count I - IV is a felony in the commission of which the defendant used a **motor vehicle**.
RCW 46.20.285.
- ☐ The defendant has a **chemical dependency** that has contributed to the offense(s). RCW
9.94A.607.
- ☐ In Count _____, **Assault in the First Degree** (RCW 9A.36.011) or **Assault of a Child in the**
First Degree (RCW 9A.36.120), the offender used force or means likely to result in death or
intended to kill the victim and shall be subject to a mandatory minimum term of five (5) years
(RCW 9.94A.540).
- ☐ Counts _____ encompass the same criminal conduct and count as one crime in
determining the offender score. RCW 9.94A.589.

FELONY JUDGMENT AND SENTENCE (FJS)
(Prison) (Nonsex Offender) (RCW 9.94A.500, .505)
(WPF CR 84.0400 (7/2011))

Page 2 of 13

CLALLAM COUNTY
PROSECUTING ATTORNEY
Clallam County Courthouse
223 East Fourth Street, Suite 11
Port Angeles, Washington 98362-3015
(360) 417-2301 FAX 417-2469

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☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

Crime	Cause Number	Court (county & state)	DV* Yes
1			
2			
3			

* DV: Domestic Violence was pled and proved.

☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	Age adult, juvenile	Type of Crime	DV* Yes
1 Burg I	1994		Clallam 94-8-314-3	JA	V	
2 Res Burg	1998		Clallam 98-1-182-7	A	NV	
3 Res Burg	2004		Clallam 04-1-110-8	A	NV	
4 Burg II	2005	"	05-1-7-2	A	NV	
5. 3 Class C's that decayed + 12 puffing + numerous other minor conv.						

* DV: Domestic Violence was pled and proved.

☐ Additional criminal history is attached in Appendix 2.2.

☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

☐ The prior convictions listed as number(s) _____, above, or in Appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

☐ The prior convictions listed as number(s) _____, above, or in Appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count	Offender Score	Seriousness level	Standard range (not including enhancements)	Plus enhancements*	Total standard range (including enhancements)	Maximum term
1		XVI	Life sentence		without parole	
2		XVI	Life sentence		without parole	
3	9+	VII	87-116m	-	87-116m	life
4	7	VII	67-89m	-	67-89m	10 years
5						
6						
TOTAL ENHANCEMENTS to be served consecutively (RCW 9.94A.310(3)(c) and (4)(e))				_____ months		

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12).

☐ Additional current offense sentencing data is attached in Appendix 2.3

FELONY JUDGMENT AND SENTENCE (FJS)

(Prison) (Nonsex Offender) (RCW 9.94A.500, .505)
(WPF CR 84.0400 (7/2011))

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Port Angeles, Washington 98362-3015
(360) 417-2301 FAX 417-2469

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For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____.

2.4 ☐ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ below the standard range for Count(s) _____.

☐ above the standard range for Count(s) _____.

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.

☐ within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 Legal Financial Obligations/Restitution. The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160). The court makes the following specific findings: *the defendant is able-*

☐ The following extraordinary circumstances exist that make restitution inappropriate *based on* (RCW 9.94A.753): _____ *able to*

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760. *pay*

restitution.

III. JUDGMENT

3.1 The defendant is *guilty* of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☒ The court *dismisses* ~~Counts~~ *the aggravated* _____ in the charging document.

IV. SENTENCE AND ORDER

It is ordered:

4.1 Confinement. The court sentences the defendant to total confinement as follows:

(a) Confinement. RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

life without poss. of parole _____ months on Count *I* _____ months on Count *IV*

life without poss. of parole _____ months on Count *II* _____ months on Count _____

116 _____ months on Count *III* _____ months on Count _____

☐ The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

☐ The confinement time on Count _____ includes _____ months as enhancement for ☐ firearm ☐ deadly weapon ☐ VUCSA in a protected zone ☐ manufacture of methamphetamine with juvenile present.

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Actual number of months of total confinement ordered is: _____

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) _____ but concurrently to any other felony cause not referred to in this judgment. RCW 9.94A.589. Confinement shall commence immediately unless otherwise set forth here: _____

(b) **Credit for Time Served.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.

(c) ☐ **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for the longer of

- (1) the period of early release. RCW 9.94A.728(1)(2); or
- (2) the period imposed by the court, as follows:

Count(s) III 36 months for Serious Violent Offenses

Count(s) _____ 18 months for Violent Offenses

Count(s) III 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The court orders that during the period of supervision the defendant shall:

☐ consume no alcohol.

☒ have no contact with: the Ray or Blanton families

☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____

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☐ not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age.

☐ participate in the following crime-related treatment or counseling services: _____

☒ undergo an evaluation for treatment for ☐ domestic violence ☒ substance abuse
☐ mental health ☐ anger management, and fully comply with all recommended treatment.

☐ comply with the following crime-related prohibitions: _____

☐ Other conditions: _____

☒ 1. You shall comply with the statutory requirements of community placement, RCW 9.94A.120(8)(b)(c), and other conditions as set forth in Judgment and Sentence.

☒ 2. You shall report as directed to the Office of Community Corrections or the Court.

☒ 3. You shall notify the Superior Court Clerk and Office of Community Corrections prior to any change of address or employment.

☒ 4. You shall pay monetary obligations as set forth in the Judgment and Sentence.

☐ 5. You shall remain within prescribed geographical boundaries, as follows: _____

☒ 6. You shall not contact or communicate with: The Remy or Blanton families

☐ 7. You shall not have direct or indirect contact with the following specified class of individuals: _____

☒ 8. You shall abstain from the use of alcohol and remain out of places where alcohol is the chief item of sale.

☒ 9. You shall abstain from the possession or use of drugs unless prescribed by a medical professional, and shall provide copies of all prescriptions to Community Corrections Officer within seventy-two (72) hours.

☒ 10. During term of community supervision, you shall submit to UAG, breath, or blood physical and/or psychological testing whenever requested by Community Corrections Officer, at your own expense, to assure compliance with Judgment and Sentence or Department of Corrections requirements.

☒ 11. You shall undergo out-patient treatment as prescribed by the Court or the Office of Community Corrections as follows: for substance abuse

☐ 12. You shall undergo in-patient/out-patient sex offender treatment as set forth below or attached hereto and incorporated by reference: _____

☒ 13. Do not use or possess firearms.

☐ 14. Do not drive a motor vehicle.

☐ 15. Refrain from further violations of the law.

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- ☒ 16. You shall pay the cost of counseling to the victim which is required as a result of your crime or crimes.
- ☒ 17. Your residence and living arrangements shall be subject to the prior approval of DOC.
- ☒ 18. You must consent to allow home visits by the Department to monitor compliance with supervision. Home visits include access for purposes of visual inspection of all areas of the residence in which the offender lives or has exclusive or joint control or access.
- ☐ 19. Other crime-related prohibitions as follows: _____

Violations of these conditions will result in additional punishment.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

4.3 Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS CODE PCV	\$ 500.00	Victim assessment (\$500.00 for felony and gross misdemeanor; \$250.00 for misdemeanor)	RCW 7.68.035
	\$	Domestic Violence assessment	RCW 10.99.080
CRC	\$ 200.00	Court costs, including:	RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190
		Criminal filing fee	\$ 200.00 FRC
		Witness costs	\$ WFR
		Sheriff's service fees	\$ SFR/SFS/SFW/WRF
		Jury demand fee	\$ JFR
		Extradition costs	\$ EXT
		Other	\$
PUB	\$	Fees for court appointed attorney	RCW 9.94A.760
WRF	\$	Court appointed defense expert and other defense costs	RCW 9.94A.760
FCM/ MTH	\$	Fine RCW 9A.20.021; [] VUCSA chapter 69.50 RCW, [] VUCSA additional fine deferred due to indigency RCW 69.50.430	RCW 69.50.430
CDF/LDI/ FCD NTF /SAD/SDI	\$	Drug enforcement fund of _____	RCW 9.94A.760
	\$	DUI fines, fees and assessments	
CLF	\$	Crime lab fee [] suspended due to indigency	RCW 43.43.690
	\$ 100.00	DNA collection fee [] not imposed due to hardship	RCW 43.43.7541
	\$	Specialized forest products	RCW 76.48.1401

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RTN/RJN	\$	Other fine or costs for: i.e., Interpreter costs (CIS) Evaluations--court ordered (EVA) Lab/blood test (BBS) Investigator services (INS) Drug Court Program (DCT) Meth lab clean-up (MTH)
	\$	Emergency response costs (Vehicular Assault, RCW 38.52.430 Vehicular Homicide, Felony DUI only, \$1000 maximum) payable to: (address) _____

(Name and address - address may be withheld and provided confidentially to Clerk of the Court's Office)

RTN solely /	\$ *	Restitution to:	TBD (Ray & Blanton families)
	\$	Restitution to:	
	\$	Restitution to:	
	\$	Restitution to:	
	\$	Statutory assessment:	Drug enforcement fund of <u>Olympic Peninsula Narcotics Enforcement Team (OPNET)</u> County Code 118.000.010 Bars Code 351.50.01 <input type="checkbox"/> VUCSA chapter 69.50 RCW, <input type="checkbox"/> VUCSA additional fine deferred due to indigency
	\$ 190.70	Costs of:	Clallam County Jail for medical treatment rendered while incarcerated in County Jail:
			\$ 117.45 pre- + post-conviction medical costs (RCW 70.48.130)
			\$ 73.25 Other costs:
			\$ 190.70 Total
			<input type="checkbox"/> hearing to be held _____, 20__ <input type="checkbox"/> with review every three months thereafter. Dept code 001.840.000 Bars Code 349.23.00.00.20
	\$ 990.70	TOTAL	RCW 9.94A.760

~~X~~ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

~~It shall~~ be set by the prosecutor.

~~It~~ is scheduled for Wed Dec 12 2012 @ 9AM (date).

☒ The defendant waives any right to be present at any restitution hearing (sign initials): PO.

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☐ Restitution Schedule attached.

☐ Restitution ordered above shall be paid jointly and severally with

R/N	NAME of other defendant(s)	Cause Number	(Victim's name)	(Amount - \$)
-----	----------------------------	--------------	-----------------	---------------

\$

\$

☐ The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

☒ All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$_____ per month commencing_____. RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

☐ The court orders the defendant to pay costs of incarceration at the rate of \$_____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.4 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

☐ **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 No Contact:

☒ The defendant shall not have contact with the Ray or Blanken families (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until for life (which does not exceed the maximum statutory sentence).

☒ The defendant is excluded or prohibited from coming within 100 yds (distance) of:

☐ _____
(name of protected person(s))'s ☒ home/ residence ☒ work place ☐ school

☐ (other location(s)) _____

☐ other location: _____, until

_____ (which does not exceed the maximum statutory sentence)

☐ A separate Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed concurrent with this Judgment and Sentence.

4.6 Other:

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4.7 **Off-Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections:

V. NOTICES AND SIGNATURES

5.1 **Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100.
RCW 10.73.090

5.2 **Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 **Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 **Community Custody Violation.**

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

5.5 **Firearms.** You may not own, use or possess any firearm, and under federal law any firearm or ammunition, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable

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identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.6 Reserved

5.7 **Motor Vehicle:** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

5.8 Other: _____

DONE IN OPEN COURT and in the presence of Defendant this date: September 18, 2012.

JUDGE

Print Name:

S. BROOKS TAYLOR

DEBORAH S. KELLY

WBA#8582

Prosecuting Attorney

(print name)

dkh

KAREN UNGER

WBA No. 11671

Attorney for Defendant

(print name)

PATRICK BOYD DRUM

Defendant

(print name)

FELONY JUDGMENT AND SENTENCE (FJS)
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1 **Voting Rights Statement:** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

2 My right to vote is provisionally restored as long as I am not under the authority of DOC (not
3 serving a sentence of confinement in the custody of DOC and not subject to community custody as
4 defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be
revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for
the payment of legal financial obligations.

5 My right to vote may be permanently restored by one of the following for each felony conviction:
6 a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued
7 by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by
the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued
by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW
29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

8 Defendant's signature: *[Signature]*

9 I am a certified or registered interpreter, or the court has found me otherwise qualified to
interpret, in the _____ language, which the defendant understands. I interpreted
10 this judgment and sentence for the defendant into that language.

11 I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true
and correct.

12 Signed at _____, _____ on _____, 20____
[city] [state] [date]

13 _____
14 Interpreter (print name)

VI. IDENTIFICATION OF THE DEFENDANT

(If no SID complete a separate Applicant card (Form FD-258) for State Patrol)

SID No. SID WA19137344 Date of Birth 03/02/1978
 FBI No. FBI 887626HBI Local ID No. ☒ WA0050000 (CCSO)
 (pick one): ☐ WA0050100 (PAPD)
☐ WA0050200 (Forks PD)
☒ WA0050300 (Sequim PD)
☐ WAWSP8000 (WSP)
 OCA 12-10091, 12-10087
 PCN No. 966073535 Other _____

Alias name, _____
 DOB: PATRICK BOYD DRUM: White Male, DOB 03/02/1978, 5'10", 160 lbs., brown hair, blue eyes, DOC 784289, WA DOL DRUM*PB228DB

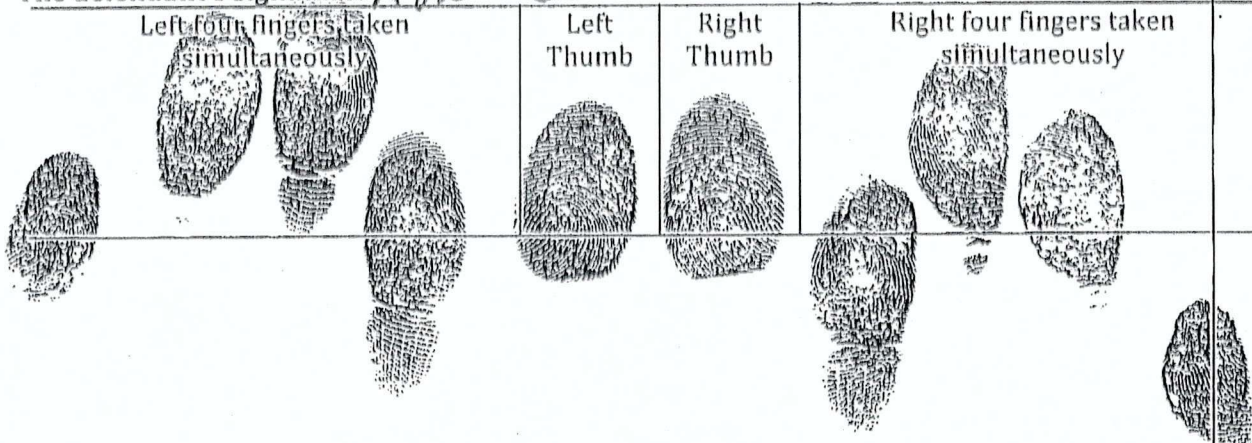
LKA: Address: 5011 Sequim Dungeness Way, Sequim, WA 98382

Race: _____ Ethnicity: _____ Sex: _____
☐ Asian/Pacific Islander ☐ Black/ ☒ Caucasian ☐ Hispanic ☒ Male
 African-American
☐ Native American ☐ Other: _____ ☐ Non-Hispanic ☐ Female

Fingerprints: I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document

Clerk of the Court *Patricia Meyer*, Deputy Clerk. Dated: September 18, 2012

The defendant's signature: *X Patrick J. Drum*



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